

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION**

TERRANCE T. BROWN

CIVIL ACTION NO. 12-3107

VERSUS

JUDGE ROBERT G. JAMES

**WARDEN, JACKSON PARISH
CORRECTIONAL CENTER**

MAG. JUDGE KAREN L. HAYES

MEMORANDUM ORDER

Petitioner Terrance T. Brown (“Brown”) has brought this Petition for Writ of Habeas Corpus, pursuant to 28 U.S.C. § 2254. Under standard assignment, the case is presently before Magistrate Judge Hayes for initial review. However, Brown has filed the pending motion for writ of mandamus [Doc. No. 8], requesting that this Court issue a writ of mandamus to direct the Magistrate Judge to order the United States Marshals Service to serve process on his petition. For the following reasons, Brown’s motion is DENIED.

A writ of mandamus is an extraordinary remedy which should be invoked only in extraordinary situations. *See Kerr v. United States Dist. Ct.*, 426 U.S. 394, 402 (1976). For a petitioner to be successful in his request for a writ of mandamus he must “demonstrate (1) a clear right to the relief, (2) a clear duty by the respondent to do the act requested, and (3) the lack of any other adequate remedy.” *In Re Stone*, 118 F.3d 1032, 1034 (5th Cir. 1997) (citing *United States v. O’Neil*, 767 F.2d 1111, 1112 (5th Cir. 1985) (citations omitted)).

The Court finds that Brown has presented no basis for the writ. Magistrate Judge Hayes, as she is charged, is currently conducting an initial review of his Petition. Once that review is

complete, she will issue a report and recommendation to this Court. She may well determine that service of process is appropriate and recommend that action to the Court. If, on the other hand, she recommends dismissal or some other action, Brown will have the opportunity to make objections to her recommendation, and this Court will make the appropriate determination at that time. Even if the Court rules against Brown, he will have the opportunity to pursue an appeal to the United States Court of Appeals for the Fifth Circuit. Brown has not shown a clear right to relief, a clear duty by the Magistrate Judge, or that he lacks any other adequate remedy. While Brown desires a favorable and speedy resolution, he has not shown that a writ of mandamus should issue. Thus,

IT IS ORDERED that his motion for writ of mandamus [Doc. No. 8] is DENIED.

MONROE, LOUISIANA, this 30th day of January, 2013.


ROBERT G. JAMES
UNITED STATES DISTRICT JUDGE